

106TH CONGRESS
2D SESSION

S. 2328

To prevent identity fraud in consumer credit transactions and credit reports,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2000

Mrs. FEINSTEIN (for herself, Mr. KYL, and Mr. GRASSLEY) introduced the
following bill; which was read twice and referred to the Committee on
Banking, Housing, and Urban Affairs

A BILL

To prevent identity fraud in consumer credit transactions
and credit reports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Identity Theft Preven-
5 tion Act of 2000”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the crime of identity theft has become one
9 of the major law enforcement challenges of the new
10 economy, as vast quantities of sensitive, personal in-

1 formation are now vulnerable to criminal intercep-
2 tion and misuse;

3 (2) the United States Postal Inspection Service
4 estimates that 50,000 people a year have become
5 victims of identity theft since the mid-1990's;

6 (3) the United States Secret Service inves-
7 tigated identity theft losses to individuals and insti-
8 tutions of \$745,000,000 in 1997, a 75 percent in-
9 crease over the \$442,000,000 lost in 1995;

10 (4) according to TransUnion Corporation, a na-
11 tional credit bureau, the total number of identity
12 theft inquiries to its Fraud Victim Assistance De-
13 partment grew from 35,235 in 1992 to 522,922 in
14 1997;

15 (5) an integral part of many identity crimes is
16 the fraudulent acquisition of the social security num-
17 ber of an individual;

18 (6) credit issuers, credit reporting agencies, and
19 other organizations with access to sensitive personal
20 data have an obligation to handle such information
21 responsibly, and should take affirmative steps to
22 prevent identity criminals from intercepting such in-
23 formation;

24 (7) identity theft causes extraordinary damage
25 to its victims, jeopardizing their access to needed

1 credit and forcing many to spend years trying to re-
 2 store their good name;

3 (8) the resources available to identity theft vic-
 4 tims are inadequate, and both the private sector and
 5 Federal agencies should provide better and more
 6 sympathetic assistance to such victims;

7 (9) credit reporting agencies and credit issuers
 8 should have uniform reporting requirements and ef-
 9 fective fraud alerts to assist identity theft victims in
 10 repairing and protecting their credit; and

11 (10) consumers need greater access to informa-
 12 tion that is collected about them so they can quickly
 13 identify fraudulent activity.

14 **SEC. 3. CHANGES OF ADDRESS.**

15 (a) DUTY OF ISSUERS OF CREDIT.—Section 132 of
 16 the Truth in Lending Act (15 U.S.C. 1642) is amended—

17 (1) by inserting “(a) IN GENERAL.—” before
 18 “No credit”; and

19 (2) by adding at the end the following:

20 “(b) CONFIRMATION OF CHANGES OF ADDRESS.—

21 “(1) IN GENERAL.—Not later than 10 days
 22 after receiving notification from a cardholder of a
 23 change of address, a card issuer shall send to the
 24 cardholder, both to the new address and to the

1 former address thereof, written confirmation of that
2 change of address.

3 “(2) NOTIFICATION OF REQUEST FOR ADDI-
4 TIONAL CARDS.—If a card issuer receives a request
5 for an additional credit card with respect to an exist-
6 ing credit account not later than 30 days after re-
7 ceiving notification of a change of address for that
8 account, the card issuer shall notify the cardholder
9 of the request at both the new address and the
10 former address.”.

11 (b) DUTY OF CONSUMER REPORTING AGENCIES.—
12 Section 605 of the Fair Credit Reporting Act (15 U.S.C.
13 1681c) is amended by adding at the end the following:

14 “(g) NOTICE OF POTENTIAL FRAUD.—A consumer
15 reporting agency shall notify each user of a consumer re-
16 port that is a creditor (as defined in section 103 of the
17 Truth in Lending Act) if the agency becomes aware that
18 an application to the card issuer to open a new credit card
19 account bears an address for the consumer that is dif-
20 ferent from the address in the file of the consumer.”.

21 (c) ENFORCEMENT.—

22 (1) FEDERAL TRADE COMMISSION.—Except as
23 provided in paragraph (2), compliance with section
24 132(b) of the Truth in Lending Act (as added by
25 this section) shall be enforced by the Federal Trade

1 Commission in the same manner and with the same
2 power and authority as the Commission has under
3 the Fair Debt Collection Practices Act to enforce
4 compliance with that Act.

5 (2) OTHER AGENCIES IN CERTAIN CASES.—

6 (A) IN GENERAL.—Compliance with sec-
7 tion 132(b) of the Truth in Lending Act (as
8 added by this section) shall be enforced under—

9 (i) section 8 of the Federal Deposit
10 Insurance Act, in the case of a card issuer
11 that is—

12 (I) a national bank or a Federal
13 branch or Federal agency of a foreign
14 bank, by the Office of the Comptroller
15 of the Currency;

16 (II) a member bank of the Fed-
17 eral Reserve System (other than a na-
18 tional bank), a branch or agency of a
19 foreign bank (other than a Federal
20 branch, Federal agency, or insured
21 State branch of a foreign bank), a
22 commercial lending company owned or
23 controlled by a foreign bank, or an or-
24 ganization operating under section 25
25 or 25A of the Federal Reserve Act, by

1 the Board of Governors of the Federal
2 Reserve System;

3 (III) a bank insured by the Fed-
4 eral Deposit Insurance Corporation
5 (other than a member of the Federal
6 Reserve System or a national non-
7 member bank) or an insured State
8 branch of a foreign bank, by the
9 Board of Directors of the Federal De-
10 posit Insurance Corporation; and

11 (IV) a savings association, the
12 deposits of which are insured by the
13 Federal Deposit Insurance Corpora-
14 tion, by the Director of the Office of
15 Thrift Supervision; and

16 (ii) the Federal Credit Union Act, by
17 the Administrator of the National Credit
18 Union Administration in the case of a card
19 issuer that is a Federal credit union, as
20 defined in that Act.

21 (3) VIOLATIONS TREATED AS VIOLATIONS OF
22 OTHER LAWS.—For the purpose of the exercise by
23 any agency referred to in this subsection of its pow-
24 ers under any Act referred to in this subsection, a
25 violation of section 132(b) of the Truth in Lending

1 Act (as added by this section) shall be deemed to be
 2 a violation of a requirement imposed under that Act.
 3 In addition to its powers under any provision of law
 4 specifically referred to in paragraph (1) or (2), each
 5 of the agencies referred to in those paragraphs may
 6 exercise, for the purpose of enforcing compliance
 7 with section 132(b) of the Truth in Lending Act (as
 8 added by this section), any other authority conferred
 9 on such agency by law.

10 **SEC. 4. FRAUD ALERTS.**

11 Section 605 of the Fair Credit Reporting Act (15
 12 U.S.C. 1681c) is amended by adding at the end the fol-
 13 lowing:

14 “(h) FRAUD ALERTS.—

15 “(1) IN GENERAL.—Upon the request of a con-
 16 sumer, a consumer reporting agency shall include a
 17 fraud alert in the file of that consumer.

18 “(2) NOTICE TO USERS.—A consumer reporting
 19 agency shall notify each person procuring consumer
 20 credit information with respect to a consumer of the
 21 existence of a fraud alert in the file of that con-
 22 sumer, regardless of whether a full credit report,
 23 credit score, or summary report is requested.

24 “(3) PENALTIES.—Any consumer reporting
 25 agency that fails to comply with this subsection, and

any user of a consumer report that fails to comply with preauthorization procedures contained in a fraud alert and issues or extends credit in the name of the consumer to a person other than the consumer, shall be in violation of this section.

“(4) DEFINITION.—In this subsection, the term ‘fraud alert’ means a clear and conspicuous statement in the file of a consumer that notifies all prospective users of a consumer report made with respect to that consumer that the consumer does not authorize the issuance or extension of credit in the name of the consumer unless—

“(A) the issuer of such credit first obtains verbal authorization from the consumer at a telephone number designated by the consumer; or

“(B) the issuer complies with such other method of preauthorization by the consumer as is mutually agreed upon by the consumer and the consumer reporting agency.”.

SEC. 5. REGULATIONS ON DUTY TO INVESTIGATE.

Not later than 6 months after the date of enactment of this Act, the Federal Trade Commission shall promulgate regulations to require each consumer reporting agency (as defined in section 603 of the Fair Credit Reporting

1 Act) to investigate discrepancies between personal or iden-
 2 tifying information contained in the file maintained by the
 3 agency with respect to a consumer and in the personal
 4 and identifying information supplied to the agency by the
 5 user of the consumer report.

6 **SEC. 6. FREE REPORTS ANNUALLY.**

7 Section 612(c) of the Fair Credit Reporting Act (15
 8 U.S.C. 1681j(c)) is amended to read as follows:

9 “(c) FREE ANNUAL DISCLOSURE.—Upon the request
 10 of the consumer, a consumer reporting agency shall make
 11 all disclosures pursuant to section 609 once during any
 12 12-month period without charge to the consumer.”.

13 **SEC. 7. IDENTIFYING INFORMATION.**

14 (a) LIMITATION.—The Fair Credit Reporting Act (15
 15 U.S.C. 1601 et seq.) is amended—

16 (1) by redesignating section 624 (15 U.S.C.
 17 1681t, as so designated by Public Law 104–208) as
 18 section 626 and moving that section to the end of
 19 the Act;

20 (2) by redesignating section 624 (15 U.S.C.
 21 1681u, as added by Public Law 104–93) as section
 22 625; and

23 (3) by inserting after section 623 the following:

1 **“SEC. 624. OTHER IDENTIFYING INFORMATION.**

2 “Except as provided in section 608, a consumer re-
3 porting agency may furnish consumer identifying informa-
4 tion, other than the name, generational designation, and
5 current address of the consumer, only in a consumer re-
6 port.”.

7 (b) DISCLOSURES TO GOVERNMENTAL AGENCIES.—
8 Section 608 of the Fair Credit Reporting Act (15 U.S.C.
9 1681f) is amended by striking “section 604” and inserting
10 “sections 604 and 623”.

11 (c) PERMISSIBLE PURPOSES.—Section 604(a) of the
12 Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amend-
13 ed in the matter preceding paragraph (1) by inserting “or
14 any identifying information (other than the name,
15 generational designation, or current address of the con-
16 sumer)” after “a consumer report”.

17 **SEC. 8. INDIVIDUAL REFERENCE SERVICES.**

18 (a) IN GENERAL.—An individual reference services
19 provider shall, upon request and proper identification of
20 a consumer—

21 (1) clearly and accurately disclose to the con-
22 sumer the nature, content, and substance of all in-
23 formation in the file maintained by the provider with
24 respect to the consumer at the time of the request
25 that is obtainable based upon the identifying infor-

1 mation supplied by the consumer when making such
2 request; and

3 (2) if the consumer has made a written request,
4 deliver a written copy or photocopy of all informa-
5 tion described in paragraph (1), together with a
6 clear, simple, and plain meaning explanation of the
7 information provided under this subsection, in a
8 readable format and type, which shall in no case be
9 smaller than 10 point type.

10 (b) INDIVIDUAL REFERENCE SERVICES PROVIDER
11 DEFINED.—

12 (1) IN GENERAL.—In this section, the term “in-
13 dividual reference services provider”—

14 (A) means any person that, for monetary
15 fees, dues, or on a cooperative nonprofit basis,
16 regularly engages in the practice of creating,
17 assembling, evaluating, or providing informa-
18 tion, either directly or as a supplier to others,
19 with respect to any person regarding any 2 or
20 more items of information described in para-
21 graph (2); and

22 (B) does not include the Federal Govern-
23 ment or any State government or political sub-
24 division thereof.

1 (2) TYPES OF INFORMATION.—The items of in-
2 formation described in this paragraph are—

3 (A) social security number or other social
4 security information;

5 (B) mother’s maiden name;

6 (C) prior address;

7 (D) birth date;

8 (E) criminal history;

9 (F) history of civil actions;

10 (G) driving records;

11 (H) vehicle information;

12 (I) past employment history;

13 (J) income level;

14 (K) tax records;

15 (L) history of voter registration; and

16 (M) other similar information, as deter-
17 mined by the Federal Trade Commission.

18 **SEC. 9. EXTENSION OF THE CIVIL MONETARY PENALTY AU-**
19 **THORITY.**

20 (a) IN GENERAL.—Section 1129(a) of the Social Se-
21 curity Act (42 U.S.C. 1320a–8(a)) is amended—

22 (1) by striking “(A)”, “(B)”, and “(C)” and in-
23 serting “(i)”, “(ii)”, and “(iii)”, respectively;

24 (2) by striking “(a)(1)” and inserting
25 “(a)(1)(A)”;

1 (3) by striking “(2)” and inserting “(B)”; and

2 (4) by adding at the end the following new
3 paragraph:

4 “(2) Any person (including an organization, agency,
5 or other entity) who—

6 “(A) having received, while acting in the capac-
7 ity as representative payee pursuant to section
8 205(j) or section 1631(a)(2), a payment under title
9 II or title XVI for the use and benefit of another in-
10 dividual, converts such payment, or any part thereof,
11 to a use that such person knows or should know is
12 other than for the use and benefit of such other in-
13 dividual; or

14 “(B) uses a social security account number that
15 such person knows or should know has been as-
16 signed by the Commissioner of Social Security (pur-
17 suant to an exercise of authority under section
18 205(c)(2) to establish and maintain records) on the
19 basis of false information furnished to the Commis-
20 sioner of Social Security by any individual; or

21 “(C) falsely represents a number to be the so-
22 cial security account number assigned by the Com-
23 missioner of Social Security to any individual, when
24 such person knows or should know that such number
25 is not the social security account number assigned

1 by the Commissioner of Social Security to such indi-
2 vidual; or

3 “(D) knowingly alters a social security card
4 issued by the Commissioner of Social Security, or
5 possesses such a card with intent to alter it; or

6 “(E) knowingly buys or sells a card that is, or
7 purports to be, a card issued by the Commissioner
8 of Social Security, or possesses such a card with in-
9 tent to buy or sell it; or

10 “(f) counterfeits a social security card, or pos-
11 sesses a counterfeit card with intent to buy or sell
12 it; or

13 “(G) discloses, uses, or compels the disclosure
14 of the social security account number of any person
15 in violation of the laws of the United States

16 shall be subject to, in addition to any other penalties that
17 may be prescribed by law, a civil money penalty of not
18 more than \$5,000 for each such violation.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 1129(b)(3)(A) of the Social Secu-
21 rity Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended
22 by striking “charging fraud or false statements”.

23 (2) Section 1129(c)(1) of such Act (42 U.S.C.
24 1320a–8(c)(1)) is amended by striking “and rep-

1 representations” and inserting “, representations, or ac-
2 tions”.

3 (3) Section 1129(e)(1)(A) of such Act (42
4 U.S.C. 1320a–8(e)(1)(A)) is amended by striking
5 “statement or representation referred to in sub-
6 section (a) was made” and inserting “violation oc-
7 curred”.

8 (4) Section 1129(l) of such Act (42 U.S.C.
9 1320a–8(l)) is amended by inserting “assignment of
10 a social security account number or” after “applica-
11 tion of an individual for”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall be effective with respect to violations
14 committed after the date of enactment of this Act.

15 **SEC. 10. MODEL FORMS.**

16 (a) IN GENERAL.—Six months after the date of en-
17 actment of this Act, the Federal Trade Commission shall
18 develop a model form and standard procedures to be used
19 by consumers that are victims of identity fraud in con-
20 tacting and informing creditors and credit reporting agen-
21 cies of such fraud, if the Commission determines, at that
22 time, that issuers of credit and credit reporting agencies
23 have failed to jointly develop such a model form and stand-
24 ard procedures.

1 (b) CONTENTS.—A model form developed under sub-
2 section (a) (by the Commission or the issuers and agencies
3 referred to therein) shall require information necessary to
4 demonstrate the fraudulent activity done in the name of
5 the consumer to whom the form relates, including, if
6 applicable—

7 (1) a notarized affidavit or police report relat-
8 ing to the activity;

9 (2) a notarized handwriting sample; and

10 (3) any other relevant documentation.

○